

08-26-4

PATENT
514425-3566DAE
IFW**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants : Beer et al
Serial No. : 08/957,187
Filed : October 24, 1997
Examiner : D.S. Nakarani
Group Art Unit : 1773
For : MONO-OR MULTILAYER FILM
Confirmation No. : 9736

745 Fifth Avenue
New York, NY 10151**EXPRESS MAIL**Mailing Label Number: EV 467846884 US
Date of Deposit: August 23, 2004

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" Service under 37 CFR 1.10 on the date indicated above and is addressed to: **Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

Charles J. Jasso
(Typed or printed name of person mailing paper or fee)

Charles J. Jasso
(Signature of person mailing paper or fee)

PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a)**Mail Stop Petition**Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Petition for Withdrawal of the Holding of Abandonment is being filed in response to the Notice of Abandonment dated August 11, 2004. The Notice states that Applicant failed to timely reply to the Notice of non-compliant amendment mailed on January 20, 2004 and that no reply was received.

Applicants wish to respectfully bring to the Commissioner's attention the fact that a response to the January 20, 2004 Office letter was indeed timely filed. Attached hereto please find a copy of the response filed on February 18, 2004 which includes the first class certificate of

mailing dated February 18, 2004, and the return receipt postcard which was also dated February 18, 2004.

In light of the above, petitioner respectfully requests that the Commissioner withdraw the Holding of Abandonment on this application so that the prosecution of this application be allowed to continue.

It is believed that no fees are required for this Petition. However, in the event that any fees are deemed to be due, the Commissioner is hereby authorized to charge any such fee to Deposit Account No. 50-0320.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP
Attorneys for Applicants

By: 

Samuel H. Megerditchian
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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/957,187	10/24/1997	EKKEHARD BEER	514425-3566	9736

20999 7590 08/11/2004

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

EXAMINER

KRUER, KEVIN R

ART UNIT	PAPER NUMBER
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1773

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

DOCKETED

2004 AUG 13 A 9:51
FROMMER, LAWRENCE
& HAUG, LLP



Notice of Abandonment

Application No.

08/957,187

Examiner

Kevin R Kruer

Applicant(s)

BEER ET AL

Art Unit


1773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 20 January 2004.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

For applicant's convenience, a copy of the Notice of non-compliant amendment, mailed January 20, 2004, is enclosed herein.


D. S. NAKARANI
PRIMARY EXAMINER, Acting
SPE

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FC
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 108
ALEXANDRIA, VA 22304-0108
WWW.USPTO.GOV

Paper No.

Notice of Non-Compliant Amendment (37 CFR 1.121)

The amendment document filed on 12/17/03 is considered non-compliant because it has failed to meet the requirement 37 CFR 1.121, as amended on June 30, 2003 (see 68 Fed. Reg. 38611, Jun. 30, 2003). In order for the amendment document to be compliant, correction of the following item(s) is required. Only the corrected section of the non-compliant amendment document must be resubmitted (in its entirety), e.g., the entire "Amendments to the claims" section of applicant's amendment document must be re-submitted. 37 CFR 1.121(h).

THE FOLLOWING CHECKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____
- ☐ 3. Amendments to the drawings: _____
- ☒ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all claims (including withdrawn claims)
 - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified.
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☐ E. Other: _____

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP Sec. 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf>.

If the non-compliant amendment is a **PRELIMINARY AMENDMENT**, applicant is given **ONE MONTH** from the mail date of this letter to supply the corrected section which complies with 37 CFR 1.121. Failure to comply with 37 CFR 1.121 will result in non-entry of the preliminary amendment and examination on the merits will commence without consideration of the proposed changes in the preliminary amendment(s). This notice is not an action under 35 U.S.C. 132, and this **ONE MONTH** time limit is not extendable.

If the non-compliant amendment is a reply to a **NON-FINAL OFFICE ACTION** (including a submission for an RCE), and since the amendment appears to be a *bona fide* attempt to be a reply (37 CFR 1.135(c)), applicant is given a **TIME PERIOD** of **ONE MONTH** from the mailing of this notice within which to re-submit the corrected section which complies with 37 CFR 1.121 in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD ARE AVAILABLE UNDER 37 CFR 1.136(a).**

If the amendment is a reply to a **FINAL REJECTION**, this form may be an attachment to an Advisory Action. The period for response to a final rejection continues to run from the date set in the final rejection, and is not affected by the non-compliance status of the amendment.

Gregory M. Kelly, Esq.
Legal Instruments Examiner (LIE)

571-272-1028
Telephone No.

First Class Mail: February 18, 2004

Serial No. 08/957,187 File No. 514425-3586 By SKM
Title in the Matter of the Application of Ekkehard BEER et al.
Applicant(s)/Inventor(s) 2/21/04 in the U.S. Patent Office, was received in the Patent Office
The following due 2/21/04
☐ Affidavit ☐ Declaration
☒ Amendment
☒ Preliminary Amendment
☐ Amendment After Final Rejection
☐ Request for Extension of Time
☐ Provisional Patent Application
☐ Application for Patent, including
 Pages Specification Claims Abstract
☐ Declaration ☐ Oath ☐ Power
☐ Request for Filing Continuation or Divisional
 Application sheets
☐ PCT Request sheets, including
☐ Transmittal Letter
☐ Request for Continued Exam (RCE)
☐ Assignment ☐ Recordation Cover Sheet
☐ Amendment Fee Transmittal
☐ Claim of Priority
☐ Request for Approval of Drawings
☐ Diskette with Sequence Listing
☐ Express Mail Mailing Label #
☐ (separate sheet)
☐ Check No. for \$
☐ Deposit Account Order Form
☐ Drawing Sheet(s)
☐ Information Disclosure Statement
☐ PTO Form 1449
☐ Issue Fee/Publication Fee Transmittal
☐ Appeal Brief (triplicate) ☐ Letter
☐ Application for TM Registration
 Including Specimens
☐ Status Request ☐ Notice of Appeal (triplicate)
☐ Petition ☐ Response
☐ Priority Document
☐ Statement of Use
☐ Response to Examiner's Statement
☐ Search Report
☐ Response to Notice to File Missing Parts

First Class Mail: February 18, 2004

Serial No. 08/957,187 File No. 514425-3586 By SKM
Title in the Matter of the Application of Ekkehard BEER et al.
Applicant(s)/Inventor(s) 2/21/04 in the U.S. Patent Office, was received in the Patent Office
The following due 2/21/04
☐ Affidavit ☐ Declaration
☒ Amendment
☒ Preliminary Amendment
☐ Amendment After Final Rejection
☐ Request for Extension of Time
☐ Provisional Patent Application
☐ Application for Patent, including
 Pages Specification Claims Abstract
☐ Declaration ☐ Oath ☐ Power
☐ Request for Filing Continuation or Divisional
 Application sheets
☐ PCT Request sheets, including
☐ Transmittal Letter
☐ Request for Continued Exam (RCE)
☐ Assignment ☐ Recordation Cover Sheet
☐ Amendment Fee Transmittal
☐ Claim of Priority
☐ Request for Approval of Drawings
☐ Diskette with Sequence Listing
☐ Express Mail Mailing Label #
☐ (separate sheet)
☐ Check No. for \$
☐ Deposit Account Order Form
☐ Drawing Sheet(s)
☐ Information Disclosure Statement
☐ PTO Form 1449
☐ Issue Fee/Publication Fee Transmittal
☐ Appeal Brief (triplicate) ☐ Letter
☐ Application for TM Registration
 Including Specimens
☐ Status Request ☐ Notice of Appeal (triplicate)
☐ Petition ☐ Response
☐ Priority Document
☐ Statement of Use
☐ Response to Examiner's Statement
☐ Search Report
☐ Response to Notice to File Missing Parts

